

2. (amended) A method of decorating and protecting a body part selected from the group consisting of feet, hands, knees, shins, elbows, and parts thereof, comprising the steps of:

- A1
- a) furnishing a flexible pad having a top and bottom surface;
 - b) providing an adhesive on said top surface and a peelable film to preserve said adhesive until used;
 - c) providing decoration selected from at least one of the group comprising color, pattern, graphic design, text, advertising, relief design, and texture;
 - d) trimming said pad to a desired shape to apply to at least one of said body parts;
 - e) peeling said film from said adhesive and applying said pad to said selected body part.

Add the following claims 13 to 20 inclusive:

- A2
- 13. The fashion wear of claim 1 wherein the fashion wear is a shoe and said selected body part is the foot.
 - 14. The method of claim 2 wherein the flexible pad is a substitute for a shoe and said selected body part is the foot.
 - 15. The fashion wear of claim 1 wherein the fashion wear is a glove and said selected body part is the hand.
 - 16. The method of claim 2 wherein the flexible pad is a substitute for a glove and said selected body part is the hand.
 - 17. The fashion wear of claim 1 wherein the fashion wear is a knee pad and said selected body part is a knee.
 - 18. The method of claim 2 wherein the flexible pad is a substitute for a knee pad and said selected body part is the knee.
 - 19. The fashion wear of claim 1 wherein the fashion wear is an elbow pad and said selected body part is an elbow.
 - 20. The method of claim 2 wherein the flexible pad is a substitute for an elbow pad and said selected body part is an elbow.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "VERSION WITH MARKINGS TO SHOW CHANGES MADE."

Response

A revised copy of the claims showing the amendments is enclosed with this response.

This paper is responsive to the examiner's non-final action in a communication dated 01/30/2002. The response is due on 04/30/2002.

Examiner's Objections

Respecting claims 6 and 11, thistle-like materials which grab together, among which are the familiar hook and loop arrangement of Velcro ®, fit the definition; however, the definition is meant to be broader than hook and loop.

Respecting claims 3 and 8, it is recognized that disposables are sometimes used more than once by thrifty-minded users, e.g., as in using a tea bag twice. Applicant provides an empathetic alternative to a single use.

Drawings

The drawings were submitted with the application papers on initial filing, as evidenced by the post card receipt and certificate of mailing by express mail, which list 8 sheets of drawings, so there is no question of new matter. Copies of the initially submitted drawings are re-submitted and are enclosed herewith.

Additional references

On 04/26/2002 a copy of the patent to Leonard was submitted in a supplemental disclosure within 3 months of first notice of it. Reference will be made to Leonard in the comments.

Submitted herewith are copies of a number of references previously overlooked. The fee of \$180 is enclosed.

Priority to Provisional Application

Recognition of the claim of priority to provisional application 60/20,357 dated 07/24/2000 is requested.

Comments

The point for decision is whether a thin, flexible pad, such as claimed by applicant, provided with adhesive for affixation to a particular group of body parts that are normally subject to abrasion, formed to serve as a substitute for an active-wear

covering such as shoes, gloves, knee, shin pads and elbow pads, especially when they are also provided with decoration on the exposed sides, would be obvious to one ordinarily skilled in the art of producing such items. There are good reasons for finding that such would be unobvious, as perhaps best exemplified in a shoe.

The Shoe Art

Applicant's foot covering is a substitute for a shoe - an outer covering for the human foot. A sandal, for example, is a particular type of shoe having a sole fastened to the foot by thongs or straps. A light slipper or low-cut shoe is ordinarily fastened to the foot by an ankle strap, or at least by a toe upper. McCarthy teaches the use of a pad to adhere the heavier conventional shoe to the foot. Innis uses adhesive to secure a thin sheet material for sanitary protection in showers. Scholl teaches a pad for ameliorating a medical condition. Leonard teaches a decorated mask to be applied to the face. The Nike advertisement shows decoration on the soles of sneakers. But none of the workers in the art took the final step to provide a thin, flexible pad, to be adhesively attached to the body of the wearer as a substitute for a shoe, and none added a design to the under side of a shoe substitute.

There are good reason why it would not be obvious to a "Shoemaker" to make a shoe that is to be disposed of after one use. A shoemaker seeks to make a long lasting, durable product, designed for many months of use. Accordingly, shoemakers choose durable materials to bond the different materials together...they nail and glue to make a strong and durable sole for continuous wear and tear. "Lasting" products are on the shoe designer's mind...and durability is his motivation. Contrary to conventional thinking, applicant's invention is a shoe that sticks to the bottom of the foot by adhesive, strong enough to last only a day's worth of wear, then to be thrown away! That concept is not an obvious reach for a shoemaker. Similar reasons apply to other body coverings subject to abrasion, such as gloves and knee, elbow and shin pad protectors.

Applicant's invention saves time consuming steps over previous devices. The McCarthy device requires that one remove a peel sheet from one side of a pad to stick to a conventional shoe bottom (McCarthy's pad is not the shoe), then remove a peel sheet on the other side of the pad to adhere to the user's foot. In order to remove after a use one has to peel the pad off the foot, then peel off the pad from the

conventional shoe bottom and then clean the surface of any residue. Applicant's invention's use is simple... remove the peel sheet and stick the pad to the foot. After use, peel it off and discard it. Applicant's invention does not require a transverse pleat in the sole for sizing, as in Innis. Applicant's pads come in sizes and are easily trimmed to fit from that point. Applicant omits any germicidal solutions or medicines that Innis and Scholl devices may contain. Applicant's segmented sandal avoids the problem of debris and dirt collecting in those areas under the toes and arch. On McCarthy's full adhesive bottom, debris and dirt will collect and stick in those areas. Applicant's full sole sandal places a solid raised area which will not allow entry of any debris or dirt under the arch of the user's foot. Applicant's invention provides a shoe substitute wherein the toes are either segmented or cut to the shape of the user's toes, which will not leave gaps for collecting dirt and debris as is the case with the Innis and McCarthy devices.

The Band-Aids and other wound coverings of the prior art are not substitutes for shoes. Their objectives are different. The Band-Aid is a one-size covering to protect existing cuts, scrapes and disease pathology, in portions of the body, not to protect healthy tissue. The function of applicant's shoe substitute is to protect healthy tissue, so why would it be obvious to adapt a Band-Aid or bunion pad to cover any part of the body before it is injured or diseased or provide an alternative to a conventional shoe?

Applicant's Invention Provides the Solution to a Long Felt Need:

Many active people, young and old, would like to go barefoot, but hesitate for fear of burning their feet on hot sands, hot pavement, hot concrete, etc., and injuring their feet on dirt, gravel and stones. Along with barefoot freedom, people like to have fun. Applicant's invention provides a double dose of fun to the users - the appearance and feeling of going barefoot, all without risk, plus the fun of exhibiting artwork on the soles of their feet. The prior art devices had certain characteristics that teach away from applicant's invention and make it an unobvious step to take. For example, Innis's public bath sheet material was not geared to fun. Guarding against infection in a public bath facility is good sanitation, but it does not suggest fun, which is the spirit of applicant's invention. Rather, Innis teaches away from the fun of sport, fashion and art.

Scholl is a medical device. Not fun. There is no smell of the beach or hint of other sporting activities about it. Again, a serious device that gives no direction to, and in fact teaches away from, the final steps taken by the applicant to create her invention.

McCarthy's shoe also teaches away from fun. Its clunky structure, interposing a pad between the user's foot and a heavy conventional sole, is grounded on conservative, long lasting traditional shoe maker's values. It does not suggest lightness, carefree movement, and freedom from the dross of a conventional shoe sole. McCarthy, like Scholl and Innis, is soberingly medicinal.

Leonard, on the other hand, misses the mark by teaching only fun. He does not teach the utility of applicant's invention which substitutes a disposable pad for a conventional shoe and yet protects against injury.

The combined teachings of Innis, McCarthy, Scholl, Nike, and Leonard do not suggest:

- a segmented sole, (nor does McCarthy suggest the actual adhesive pad as the sandal. He is attaching the adhesive pad to a conventional shoe bottom);

- a novelty kit to do-it-yourself by trimming the pad with scissors;

- modifying the full coverage sole to include a raised arch area that will eliminate debris and dirt collecting in that area as well as a better secure fit.

- a snug fitting material that will conform to the foot in a snug tight fit.

- A design on a temporary shoe substitute

- a water resistant product made for the pool and beach use.

Why is the total package of utility, fun and appearance so important? Because users want comfort, they want design, and they want to be "in." To applicant's information, there is only one shoe currently available for use in the water of the beach and pool - a conventional type of shoe known as the aqua shoe or beach sock.

Young people, especially kids, tweens and teens think these shoes are ugly and are embarrassed to wear them. They will bear the pain of burning feet and pokes and scratches rather than (in their view) look like a "nerd" wearing an aqua shoe.

Traditional thongs, sandals etc. cannot be worn in the pool or in the ocean, but Applicant's invention product is ideal for this purpose. It is not visible unless the wearers choose to show the art work on the bottoms of their feet. Applicant's

invention provides a product that is fashionable, convenient to apply, fun to wear and use, and users young and old will embrace the concept.

Enclosed are photographs of children and adolescents modeling applicant's fun-based utility invention. What a striking departure from the prior art this shows.

The shoe industry is a crowded art. A good definition of a shoe is...A durable covering for the human foot. There are currently hundreds of types and styles of shoes available on the market today for every age. High heels, spike heels, low heels, no heels, with straps, without straps, with laces, without laces, with buckles, without buckles, with zippers, without zippers, Velcro attachments, no attachments...slid into, shoes for dress, shoes for leisure, shoes for dancing, walking, or running. Slippers for indoor wear. Athletic shoes for tennis, golf, basketball, football, baseball, bowling or soccer. Aqua shoes for swimming. Boots for riding a horse, boots for all types of construction work. Boots for motorcycle riding, Boots for rain and snow etc. The shoe industry is always ready for a "new" and "innovative" concept. That is what applicant's invention provides.

With all of the above advantages and meeting and satisfying a felt need, applicant's invention would have been brought to the public's attention long ago if it were obvious.

Gloves/Handwear:

Conventional gloves are confining. A person sweats while wearing them - especially in sports. Gloves begin to smell bad after a few uses sometimes even after one use. When a sweaty glove dries...the material becomes stiff, crinkles and cracks, and loses its shape. Moreover, the wearers cannot truly "feel" what they are doing while wearing traditional gloves...their natural senses of touch do not come into play. A woman who wears traditional gloves has difficulty with the confinement of a conventional glove due to longer nails and rings, jewelry etc. Another problem with traditional gloves is keeping track of where you put them after use. People are always losing both or just one. If you lose one...the other is useless and you need to repurchase a new pair. With a disposable product...losing one or both is not a concern. You would have thrown both away in any event. Applicant's gloves are disposable after one use...they eliminate the odor problem...the stiff and cracking problem and the changing shape problem.

Also, the sun leaves tan lines on the hands, which is not attractive. Applicant's glove substitutes are disposable, clean, simple, convenient, non-cumbersome, lightweight and are only on the palm of the hand so that the normal skin of the hand tans evenly with the rest of the body.

Applicant's glove replacement is worn on the palm...inner side only...with no confinement, so it permits a woman to display long nails, nail decoration and jewelry, even while driving a car and playing sports such as golf, badminton, croquet and tennis. The hand can breathe.

The difficulty of putting on gloves is eliminated by this invention. A conventional glove is difficult to slide over each finger and pull down for a snug and secure fit, and a strap must be tightened.

Knee Pads, Elbow Pads and Shin Pads

The traditional pads are attached to an article of clothing by means of buckles, Velcro, straps and stitches. The pads shift in placement as the article of clothing shifts or the buckle or strap loosens, and therefor need continuous adjustments. Applicant's pads are attached directly to the active body part subject to abrasion...not an article of clothing. They conform to the body part covered and do not move or shift at all...they are flexible material and stay in the exact place to which applied. There are no buckles, straps, etc. to cause any irritation or rubbing. Buckles and straps on conventional protective devices must be tightened and adjusted until comfortable for the knee, elbow and shin. The product of this invention makes it easy to apply- just remove the peel sheet and stick on the pad.

An added advantage of the invention is that a disposable product does not need cleaning, does not need to be stored, and consequently does not take up space. A traditional product that is used over and over needs to be cleaned, needs to be stored, and takes up space.

Applicant's invention is responsive to the times. People want their feet to breathe. Children dislike wearing shoes altogether. There has always been a desire to be natural and "feel" the environment, to get in touch with the world and nature, to feel the grass while running barefoot through the park! Going barefoot is a fashion statement telling the world "I'm confident, free and natural, and beautiful just the way god created me!" Simplicity is In! Unique and different is In! Body decoration is In!

Women decorate their bodies with tattoos, paint their nails with color, and wear jewelry on toes and ankles and other parts of the body in a fashion conscious society. Applicant's invention serves the mood.

Inasmuch as none of the references, taken singly or in combination, lead the way to applicant's invention. It is evident that the claims should be allowed, and such is requested.

Respectfully submitted,

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